THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.18201 OF 1995

DATED: 17-10-2006

BETWEEN

T. Sarojamma, W/o. Late T. Chinnabba,
R/o. TTD Quarter No.1018, Balaji Nagar,
Tirumala, Chittoor District and another.

...PETITIONERS

AND

The Executive Officer,
Tirumala Tirupathi Devasthanams,
Tirupathi.

...RESPONDENT

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondent in not appointing the second petitioner on compassionate grounds as arbitrary and discriminatory and consequently to direct the respondent to appoint the petitioner on compassionate grounds in TTD service.

Learned counsel for the petitioners submits that the first petitioner is the wife and second petitioner is the third son of late
T. Chinnabba, who was a permanent employee in TTD service in the cadre of sanitary worker and expired while in service on 30.07.1993. After the death of her husband the first petitioner made a representation on 27.10.1993 to consider her request for providing employment as Assistant on compassionate grounds to her third son – T. Krishanaiah – second petitioner herein. But the said representation was rejected by a memo dated

13.04.1994 on the ground that two children of the deceased are already employed in the TTD service in the same family. Questioning the said memo dated 13.04.1994 this writ petition has been filed on 07.08.1995 and this Court by order dated 27.06.1996 in WPMP.No.22266 of 1995 granted interim direction to the respondent to consider the case of the second petitioner for appointment on compassionate ground in TTD service pending further orders.

Thereafter a counter has been filed on 31.07.2000 along with an application to vacate the interim order granted on 27.06.1996.
It appears that the said vacate petition was neither numbered nor listed and on a representation of the learned counsel for the petitioners that pursuant to the interim direction granted by this Court,
no further orders are necessary in this writ petition, this Court closed the writ petition by order dated 03.10.2001.

However, it is stated that pursuant to the interim direction of this Court the case of the second petitioner was considered and he was given appointment on 28.10.1996 on compassionate grounds as an attender.

Aggrieved by the said order dated 03.10.2001 the TTD filed W.A.No.75 of 2002 contending that to avoid contempt proceedings alone the second petitioner was appointed temporarily pursuant to the interim direction and in fact, TTD filed a counter along with a vacate petition and without disposing the vacate petition the main WP was closed erroneously. On those contentions, the Division Bench of this Court ordered the writ appeal setting aside the order of the learned single Judge and remitted the matter to the learned singe Judge to dispose the writ petition on merits in the light of the pleadings made by both parties. That is how this writ petition has been pending.

Learned counsel for the petitioners submits that as per the earlier

orders of the Government in G.O.Ms.No.1005 Employment and Social Welfare Department dated 27.12.1974 only one member of the family is eligible for compassionate appointment but the Government in its subsequent orders in G.O.Ms.No.687 General Administration (Ser-A) Department dated 03.10.1977 read with Memo.No.618/Ser-A/78-11 General Administration (Ser-A) Department dated 17.12.1979 has clarified at Sl.No.2 that when the elder earning member is separated from the family whether the younger brother can be appointed or not, it should not matter if son has divided himself from the family and is already employed and if the family is without a bread winner, a son/daughter out of the remaining or the wife may be given a job. He further submits that as per the said clarification the elder earning members of the petitioners family though employed in TTD they have divided themselves from the family and the family is without a bread winner and the said two elder sons were employed prior to the death of the deceased and the family of the deceased i.e. the petitioners herein are without a bread winner and therefore, the second petitioner is entitled to appointment on compassionate grounds.

Admittedly, no enquiry has been conducted by the TTD as to whether the earning members – first and third sons of the deceased divided themselves after they were employed in TTD, prior to the death of their father. However, whether the second son is still living with his mother and whether the petitioners are living as one family are matters to be considered by TTD.

In the counter filed by TTD nothing has been stated as to whether the two sons of the petitioners' family employed in the TTD divided themselves from the petitioners' family and living separately or not.

However, I am of the opinion that as per the clarification in the said memo whether the second petitioner herein is entitled to be considered for appointment on compassionate grounds or not,

an enquiry has to be conducted, having regard to the facts and circumstances of the case, the respondent is directed to conduct an enquiry and pass appropriate orders, in the light of the clarification made at Sl.No.2 of the Memo.No.618/Ser-A/78-11 dated 17.12.1979 pursuant to G.O.Ms.No.687 dated 03.10.1977, within a period of eight weeks from the date of receipt of a copy of this order and till then status quo obtaining as on today shall be maintained.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

October 17, 2006
DSK